

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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PUBLIC SERVICE OF
COMMISSION

In the Matter of:

NOTICE OF INTENT OF BEREA COLLEGE)
TO FILE AND APPLICATION FOR THE) Case No. 2004-00331
TRANSFER OF UTILITY ASSETS TO)
THE CITY OF BEREA)

**JOINT APPLICANTS' RESPONSES TO COMMISSION STAFF'S
FIRST SET OF INFORMATION REQUESTS**

The Joint Applicants, through counsel, submit the following responses to the Commission Staff's First Set of Information Requests:

REQUEST NO. 1 - Provide copies of the audited financial statements for Berea College for the fiscal year ended June 30, 2004.

RESPONSE NO. 1 - See Exhibit 1. The person responsible for responding to questions concerning these documents is Jeff Amburgey.

REQUEST NO. 2.a. - Provide a detailed income statement, balance sheet, trial balance, and statement of retained earnings for Berea College's Electricity Department for the fiscal year ended June 30, 2004 in conformity with the Uniform System of Accounts as prescribed by the Federal Energy Regulatory Commission.

RESPONSE NO. 2.a. - See Exhibit 2.a. The persons responsible for responding to questions concerning this document are Jeff Amburgey and Mike Bethurem.

REQUEST NO. 2.b. - Provide a detailed income statement, balance sheet, trial balance, and statement of retained earnings for Berea College's Water Department for the fiscal year ended June 30, 2004 in conformity with the Uniform System of Accounts for Class A and B Water Companies prescribed by this Commission.

RESPONSE NO. 2.b. - See Exhibit 2.b. The persons responsible for responding to questions concerning this document are Jeff Amburgey and Mike Bethurem.

REQUEST NO. 3.a. - At page 3 of the Utility Purchase Agreement is the statement that the \$18,336,878 purchase price is based upon the book value of the assets listed and described on Exhibits A, B, C, E, F, and G to this Agreement, less deduction for the current liabilities. Provide an itemized calculation of the \$18,336,878 purchase using the following table.

Description	Water Department	Electricity Department	Total
Utility Plant In Service			
Accumulated Depreciation			
Reserve Balance			
Net Utility Plant In Service			
Easements, Rights of Way & Other Interests			
Accounts Receivable			
Subtotals			
Less: Current Liabilities			
Purchase Price			\$18,336,878

RESPONSE NO. 3 a - See the information set forth in Exhibit 3.a. The persons responsible for responding to questions concerning this table are Jeff Amburgey and Mike Betherum.

REQUEST NO. 3.b. - Provide the basis for the estimates used in the derivation of the purchase price.

RESPONSE NO. 3.b. - The \$18,336,878 amount was not an estimate, but it was an example of how the purchase price is to ultimately be calculated. That amount was calculated using the book value of the assets and the current liabilities as of December 31, 2003. This information was obtained from the College's books and accounts, all of which are based upon generally accepted accounting principles. At closing, the purchase price will be adjusted, as required by Paragraph 3 of the Utility Asset Purchase Agreement, to reflect (i) acquisitions and dispositions of assets and (ii) any increases or decreases in current obligations of the electric and water systems after the date of the Agreement but prior to Closing. In addition, the price will be subject to post-closing adjustments necessary to address uncollectible receivables as specified in Paragraph 3. It is the intent of the parties that the actual sale price reflect the book value of the assets and current liabilities as of the date of Closing. The person responsible for answering questions pertaining to this response is Jeff Amburgey.

REQUEST NO. 3.c. - Provide a comparison of the estimates used in the derivation of the \$18,336,878 with the actual amounts reported in the financial statements provided in response to Items 2(a) and 2(b).

RESPONSE NO. 3.c. - See Exhibit 3.c.

REQUEST NO. 4 - Provide a list of the individuals involved in the negotiations between Joint Applicants, including the relationship of each to Berea College and/or city of Berea.

RESPONSE NO. 4 - The individuals directly involved in the negotiations were: (a) for the City of Berea - Mayor Steven Connelly, City Administrator Randy Stone, Berea City Council Member Glenn Jennings, and Corporation Counsel for the City of Berea, J. T. Gilbert; and (b) for Berea College - President Larry D. Shinn, former Vice President for Finance, Ron Smith (now a Vice President at Lewis & Clark State College in Lewiston, Idaho), E. Diane Kerby, Vice

President for Business and Administration, Jeff Amburgey, Controller and Assistant Vice President for Finance (now Acting Vice President for Finance), and Judge B. Wilson II, General Counsel. Berea College's Utilities Administrator, Mike Bethurem, participated in some early discussions of the proposed transfer prior to his resignation from the College. Subsequent to his resignation as an employee, Mr. Bethurem participated periodically as a consultant. Both the Berea City Council and the Berea College Board of Trustees approved the final terms of the transaction, but except as noted above, those individuals were not involved in the negotiations which resulted in the Utility Asset Purchase Agreement. Both the City and the College utilized various consultants to evaluate specific aspects of the transaction during the course of the negotiations, but those consultants were not directly involved in the negotiations between the parties.

REQUEST NO. 5 - Provide copies of any correspondence, memoranda, or other documents describing the negotiations between Joint Applicants.

RESPONSE NO. 5 - OBJECT. The Joint Applicants object to the production of the documents set forth in Request No. 5 inasmuch as they are irrelevant and unlikely to lead to the discovery of relevant information. The only issue pending before the Commission is whether the proposed transfer satisfies the statutory requirements set forth in KRS Chapter 278. The Utility Asset Purchase Agreement attached as Exhibit "D" to the Application constitutes the complete and final agreement of the parties. (¶ 26.) Thus, whatever negotiations occurred prior the execution of the Utility Asset Purchase Agreement are not germane to Commission's inquiry. Further, the production of such documents would be unduly burdensome inasmuch as the negotiations spanned an eighteen month period, involved multiple individuals and involved an evaluation of multiple issues. Finally, many of the requested documents constitute privileged

and confidential information communicated between the Joint Applicants and their counsel. For all of the forgoing reasons, the Joint Applicants object to the production of the documents requested.

Subject to the forgoing objection, please see the documents attached as Exhibit 5 which include the requested correspondence, memoranda, or other documents describing the negotiations between Joint Applicants for the six month period prior to the execution of the Utility Asset Purchase Agreement, but which exclude privileged communications between the Joint Applicants and their respective counsel. The documents produced reflect the documents kept by the Joint Applicants in the ordinary course of their respective business operations.

REQUEST NO. 6 - Provide a copy of the analysis performed by Howard K. Bell Engineers on behalf of the city of Berea.

RESPONSE NO. 6 - See attached Exhibit 6. A copy of the analysis is attached to the original version of this Response which is filed with the Commission. In addition, copies have been served on counsel for the Commission and on the Office of the Attorney General, however, in light of the volume of this report, multiple copies have not been filed with the Commission. In the event additional copies are needed by Commission staff, the Joint Applicants will provide such copies upon request. The persons responsible for responding to questions concerning this document are Joe Roberts and Mike Williams.

REQUEST NO. 7 - Refer to paragraph 8 of the Utility Purchase Agreement. This Agreement states that the city of Berea will offer employment to each of Berea College's water system and electric system employees provided that each passes the physical examination and other screening tests routinely required of applicants for employment with the city of Berea.

RESPONSE NO. 7 - The person responsible for responding to questions concerning this response is Randy Stone.

REQUEST NO. 7.a. - State whether any of the employees of Berea College's water and electric system have declined the city of Berea's offer of employment. If yes, provide a list of the employees who declined and their job responsibility.

RESPONSE NO. 7.a. - No.

REQUEST NO. 7.b. - State whether either Berea College or the city of Berea anticipates any of the employees of Berea College's water and electric system to decline the city of Berea. The following employees are expected to decline the City's offer of employment:

RESPONSE NO. 7.b. - No.

REQUEST NO. 7.c. - Describe the physical examination and the screening tests that the city of Berea plans to require the Berea College employees to undergo.

RESPONSE NO. 7.c.- The only physical examination required will be the same required of all new employees and consists of a brief physical examination by a family physician in Berea, Dr. Robert Long. The City does not conduct pre-employment drug screening, and only has random drug screening of employees who have Commercial Drivers Licenses.

REQUEST NO. 8 - Refer to paragraph 24 of the application, which provides that the city of Berea anticipates using consultants to supplement the technical and operational expertise of employees.

RESPONSE NO. 8 - The person responsible for responding to questions concerning this response is Randy Stone.

REQUEST NO. 8.a. - State what consultants the city of Berea anticipates using to supplement the technical and operational expertise of the employees.

RESPONSE NO. 8.a. - CDP Engineering, Lexington; H.K. Bell Engineers, Lexington; R.W. Beck Consulting Engineers; Work & Greer, CPA, Nashville, TN.

REQUEST NO. 8.b. - State why the city of Berea anticipates that outside consultants may be necessary.

RESPONSE NO. 8.b. - The City intends to continue to utilize Berea College's consultants (H.K. Bell and R.W. Beck) because there are ongoing projects on which such consultants are engaged; CDP performed the technical due diligence analysis for the City prior to the approval of the purchase agreement; Work & Greer performed the due diligence analysis on financial matters for the City prior to the approval of the purchase agreement; the City intends to continue to utilize these consultants in the in the event there are issues involving the areas of the respective consultant's expertise.

REQUEST NO. 9 - Provide a copy of Exhibit P of the Agreement.

RESPONSE NO. 9 - A copy of City of Berea Resolution 10-04 is attached.

VERIFICATION

We hereby verify that the information set forth above is true to the best of our knowledge and belief.

BEREA COLLEGE

By: E. Doree Kerby

Title: Vice President Business Administration

CITY OF BERA

By: Randy Stone

Title: City Administrator

STATE OF KENTUCKY

COUNTY OF MADISON

The foregoing was acknowledged, subscribed and sworn to before me this 5 day of October, 2004, by E. Diane Kerby, as Vice President, Business + Administration, of Berea College.

My Commission expires: 5/17/06

Scotty Albany
Notary Public

STATE OF KENTUCKY

COUNTY OF MADISON

The foregoing was acknowledged, subscribed and sworn to before me this 5th day of October, 2004, by Randy Stone, as City Administrator, of the City of Berea.

My Commission expires: 4-26-08

Cheryl Chaeton
Notary Public

Respectfully submitted,

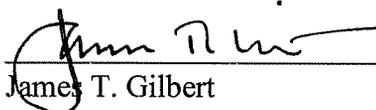
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and

Judge B. Wilson, II
General Counsel
Berea College
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Berea, KY 40404
859.985.3131

By: [Signature]

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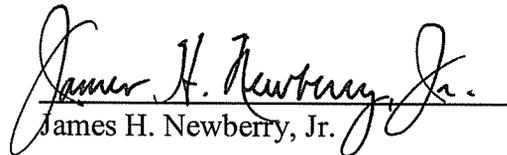
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Joint Applicants' Responses to Commission Staff's First Set of Information Requests was served via hand delivery, upon the following:

Anita Mitchell, Esq.
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, KY 40601

David Spenard, Esq.
Elizabeth Blackford, Esq.
Office of the Attorney General
1024 Capital Center Drive, Suite 200
Frankfort, KY 40601-8204

This the 5th day of October, 2004.



James H. Newberry, Jr.

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